

## Message Text

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ORIGIN ERDA-07

INFO OCT-01 EUR-12 ISO-00 FEA-01 ACDA-10 CIAE-00 INR-07

IO-13 L-03 NSAE-00 NSC-05 EB-07 NRC-07 OES-06 DODE-00

COME-00 PM-04 /083 R

DRAFTED BY USERDA:AIA:SGRIFFITH:LR

APPROVED BY OES/NET:DHOYLE

USERDA:AIA:DSHILLER

EUR/RPE:DSWARTZ

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P 311541Z AUG 76

FM SECSTATE WASHDC

TO AMEMBASSY PARIS PRIORITY

INFO USMISSION EC BRUSSELS PRIORITY

UNCLAS STATE 215586

E.O. 11652: N/A

TAGS: TECH, FR

SUBJECT: ERDA-CEA GENERAL NUCLEAR AGREEMENT

REF: A. PARIS 20077 B. STATE 124403

1. THIS PROVIDES COMMENT ON PATENT MATTERS RAISED IN REFTEL A. ERDA'S VIEWS ON STATUS OF NEGOTIATION OF DRAFT AGREEMENT AND PROTOCOLS BEING DEVELOPED AND WILL BE FORWARDED UPON COMPLETION.

2. WE CAN AGREE WITH CEA PROPOSAL REPORTED PARA 2A, REFTEL A, TO AMEND ARTICLE 8, PARA 1, FIRST SENTENCE (REFTEL B) TO READ: "WITH RESPECT TO ANY INVENTION OR DISCOVERY CONCEIVED OR FIRST REDUCED TO PRACTICE IN THE COURSE OF THE COOPERATIVE ACTIVITIES UNDERTAKEN BY THE PARTIES UNDER THIS AGREEMENT THROUGH APPLICATION OF ITS PROTOCOL:". WE ASSUME THAT THE ABOVE FORMULATION IS WHAT CEA HAD IN MIND.

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HOWEVER, IF CEA IS PROPOSING TO DELETE THE WORDS: "WITH

RESPECT TO ANY INVENTION OR DISCOVERY CONCEIVED OR FIRST REDUCED TO PRACTICE," WE COULD NOT AGREE.

3. WE CAN AGREE WITH CEA PROPOSAL REPORTED PARA 2E, REFTEL A, TO AMEND ARTICLE 8, PARA 1D (REFTEL B) TO READ: "IN ANY CASE WHERE ONE PARTY FIRST ACTUALLY REDUCES TO PRACTICE AFTER THE EXECUTION OF THIS AGREEMENT AN INVENTION CONCEIVED BY THE OTHER PARTY PRIOR TO THE EXECUTION OF THE AGREEMENT, THEN THE PARTIES SHALL PROVIDE FOR AN APPROPRIATE DISTRIBUTION OF RIGHTS, TAKING INTO ACCOUNT EXISTING COMMITMENTS WITH THIRD PARTIES; PROVIDED, HOWEVER, THAT EACH PARTY SHALL DETERMINE THE RIGHTS TO SUCH INVENTION IN ITS OWN COUNTRY."

4. WE ARE UNABLE TO AGREE WITH CEA PROPOSALS REPORTED PARA 2B AND 2D, REFTEL A, IN THAT THESE PROPOSALS WOULD HAVE THE EFFECT OF ATTENUATING CONCEPT OF "FIRST REDUCED TO PRACTICE." ALTHOUGH WE UNDERSTAND CEA CONCERN OVER SITUATION WHEREIN A CEA INVENTION PATENTED IN FRANCE IS FIRST ACTUALLY REDUCED TO PRACTICE UNDER THE AGREEMENT, WITH THE RESULT THAT ERDA HAS ALL RIGHT, TITLE AND INTEREST IN THE US AND THIRD COUNTRIES, WE BELIEVE THAT THE CLAUSE APPEARING IN ARTICLE 8, PARA 1D (REFTEL B) PROVIDES A SOLUTION EQUITABLE TO BOTH ERDA AND CEA.

5. WITH RESPECT TO CEA PROPOSAL REPORTED PARA 2C, REFTEL A, WE PREFER TO REVIEW LANGUAGE BEING PREPARED BY CEA BEFORE COMMENTING FURTHER. ROBINSON

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